

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
BECKLEY DIVISION**

UNITED STATES OF AMERICA)	
)	
)	
v.)	Criminal No. 5:14-cr-00244
)	
DONALD L. BLANKENSHIP)	
)	

**MEMORANDUM TO THE COURT CONCERNING DEFENDANT
DONALD L. BLANKENSHIP'S PRETRIAL MOTIONS**

The defense is filing a number of pretrial motions. With the exception of Defense Motion No. 3, Motion to Transfer to Another District for Trial, they are being filed today. These motions have been listed below and, for convenience, have been numbered.

There are an extraordinary number of grounds upon which this indictment must be dismissed. Each of the motions demonstrates an entitlement to the relief sought, and we do not suggest that the motions higher on the list have greater merit than those lower. Motions applicable to all counts are listed first (Nos. 1 to 5), before listing, in order, dismissal motions devoted to each count. Thus, Motions 6 to 9 pertain to Count One; Motions 10 to 12 pertain to Count Two; Motion 13 pertains to Count Three; and Motions 14 and 15 pertain to Count Four. Again, Motions 14 and 15 pertaining to Count Four (a 20-year count) are as important as any of the other motions, and the defense does not mean to suggest otherwise by numbering the motions in this fashion. We note that an order granting relief on some these motions may moot the need to decide others.

Motions 16 to 20 concern discovery or other non-dispositive issues, including but not limited to a *Brady* motion, a motion for bill of particulars, and a motions to continue the deadline for *in limine* motions. These motions too are important.

As an initial matter, the defense respectfully requests that the Court hear and decide the Motion for Disqualification, which is numbered Defense Motion No. 1, before proceeding further with the other motions. Defense counsel believe the Court will see the merit in having a judge from outside this District assigned to this case. In that case, all motions being filed today, as well as any filed later, will then be assigned to that judge.

Finally, under the existing Order of Reference, all motions are assigned to Magistrate Vandervort for his initial decision. Defense Motion No. 2 requests the Court to revoke that order. In any event, this Court should hear and decide the Motion for Disqualification in the first instance because of its obvious significance to all further developments in this case.

The list of the defense's motions is as follows:

Motion No. 1	Motion to Disqualify This Court and All the Judges of the United States District Court for the Southern District of West Virginia
Motion No. 2	Motion to Revoke Order of Reference to Magistrate
Motion No. 3	Motion to Transfer to Another District for Trial (To Be Filed on February 20, 2015)
Motion No. 4	Motion to Dismiss for Vindictive and Selective Prosecution of Donald L. Blankenship for Exercising His First Amendment Rights
Motion No. 5	Motion to Dismiss for Improper and Misleading Conduct before the Grand Jury
Motion No. 6	Motion to Dismiss Count One for Failure to State an Offense
Motion No. 7	Motion to Dismiss Count One for Failure to Charge Cognizable Conspiratorial Objects
Motion No. 8	Motion to Dismiss Count One for Lack of Specificity
Motion No. 9	Motion to Dismiss Count One as Duplicious or To Require Election Between Counts One and Two
Motion No. 10	Motion to Dismiss Count Two for Failure to State a Conspiracy to Defraud

Motion No. 11	Motion to Dismiss Count Two for Improper Use of “Defraud” Clause of Section 371
Motion No. 12	Motion to Dismiss Count Two for Charging Conspiracy to Defraud the United States of Intangible Rights
Motion No. 13	Motion to Dismiss Count Three for Failure to State an Offense
Motion No. 14	Motion to Dismiss Count Four Due to Its Failure to Allege Materially False, Misleading or Fraudulent Statement of Fact
Motion No. 15	Motion to Dismiss Count Four for Failure to Allege Facts Establishing That Mr. Blankenship Made or Willingly Caused To Be Made Materially False or Misleading Statements
Motion No. 16	Motion for Bill of Particulars
Motion No. 17	Motion to Strike Surplusage from the Indictment
Motion No. 18	Motion for Access to Government’s Grand Jury Instructions
Motion No. 19	Motion to Enforce the Government’s <i>Brady</i> Obligations
Motion No. 20	Motion for Extension of Time to File <i>Motions In Limine</i>

Dated: February 6, 2015

Respectfully submitted,

/s/ William W. Taylor, III

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CERTIFICATE OF SERVICE

I hereby certify that the foregoing has been electronically filed and service has been made
by virtue of such electronic filing this 6th day of February 2015 on:

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